

**Notice of Allowability**

Application No.

10/034,511

Examiner

Eisa B Elhilo

Applicant(s)

PATEL ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 11/3/2003.
2. ☒ The allowed claim(s) is/are 1-4, 7-31 and 33-37.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 11/3/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 3/8/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Brian P. Mruk  
BRIAN P. MRUK  
PRIMARY EXAMINER  
TECH CENTER 1700

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### DETAILED ACTION

- 1 This action is responsive to the amendment filed on 11/3/2003.
- 2 The terminal disclaimer filed on November 3, 2003 disclaiming the terminal portion of any patent granted on this application, which would expected beyond the expiration date of co-pending Application No. 10/096812, co-pending Application 10/095657, co-pending Application No. 10/034174 and co-pending Application No. 10/196130 has been reviewed and is accepted. The terminal disclaimer has been recorded.
- 3 The cancellation of claims 5-6 and 38-40 is acknowledged. Pending claims are 1-4 and 7-37.

### EXAMINER'S AMENDMENT

- 4 An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Milton Honig on March 8, 2004.

The application has been amended as follows:

#### **In the claims:**

Please cancel claim 32.

- 5 Claims 1-4, 7-31 and 33-37 are allowed.

### STATEMENT OF REASONS FOR ALLOWANCE

- 6 The following is an examiner's statement of reasons for allowance:

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Casperson et al (US 5,376,146) teaches a method for dyeing hair. The method comprises the step of contacting the hair with a mixture of a two part aqueous composition of a) an alkaline aqueous (see col. 3, 50-52) containing from about 0.005% by weight to about 5% by weight (equimolar quantities of oxidation bases and couplers) of at least one primary intermediate and at least one coupler for the formation of oxidation dyes (see col. 8, lines 30-34), from about 0.1% to about 5% of a quaternary ammonium compound (conditioner agent) and at least 70% by weight water and may be as high as 95% or higher to make the lotion (shampoo base) in an aqueous condition (see col. 3, lines 50-53 and col. 4, lines 3-4), and b) an aqueous developer (oxidizing agent) (see col. 3, lines 57-62). However, patentee differs from applicant in that Casperson et al, does not teach or suggest in general a method for dyeing hair wherein the hair is subjected to a number of treatments having a set time interval between each two consecutive treatments and wherein the identical formulated mixture is used for each treatment as required by the instant amended claims. Accordingly, the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of hair dyeing formulation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 - 5:30) with alternate Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eisa Elhilo  
March 8, 2004



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